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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,869	09/11/2003	Sherry D. Jackson	2796/28	8978

7590 08/25/2004

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EXAMINER	
PAK, JOHN D	

ART UNIT	PAPER NUMBER
1616	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/661,869	JACKSON ET AL.	
	Examiner	Art Unit	
	JOHN D PAK	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claims 1-20 are pending in this application.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-16, drawn to a method for supplementing the dietary needs in an adult female comprising orally administering an appropriate "life stage" dietary supplement to pre-perimenopausal women, perimenopausal/menopausal women, or post-menopausal women, classified in multiple subclasses in classes 514 and 424, depending on the individual ingredients in the supplement.

II. Claim 17, drawn to a method for preventing or reducing risk of iron deficiency anemia, PMS and fetal neural tube defects comprising administering to a pre-perimenopausal woman an appropriate amount of a "life stage" dietary supplement, classified in multiple subclasses in classes 514 and 424, depending on the individual ingredients in the supplement.

III. Claim 18, drawn to a method for preventing or reducing risk of PMS, symptoms of menopause, coronary heart disease, some cancers, cervical dysplasia and osteoporosis comprising administering to a perimenopausal or menopausal woman an effective amount of a "life stage" supplement, classified in multiple subclasses in classes 514 and 424, depending on the individual ingredients in the supplement.

IV. Claim 19, drawn to a method for preventing or reducing risk of coronary heart disease, at least one form of cancer and osteoporosis comprising administering to a post-menopausal woman an effective amount of a "life stage" supplement, classified in multiple subclasses in classes 514 and 424, depending on the individual ingredients in the supplement.

V. Claim 20, drawn to a "series" of nutritional supplements formulated for the lifestages associated nutritional needs of a woman, classified in multiple subclasses in classes 514 and 424, depending on the individual ingredients in the supplement.

The five inventions as set forth are distinct, each from the others. Groups II, III and IV are directed to treating different stages of a woman's life. Group I is a life-long process. Even though Group V appears to be related to Group I in a method – composition relationship, no such relationship exists in fact because Group V is directed to a "series," which is not a recognized category of invention, i.e. it is not a composition per se. Therefore, each of the five inventions is distinct over the others.

Additionally, there would be undue burden in having to search and examine more than one invention group because each invention already presents substantial burden due to the complexity in this art related to multiple ingredient supplements and the numerous ingredients that must be searched as ingredients in the supplement.

Consequently, for the reasons of distinctness and undue burden, the restriction requirement as set forth above is deemed to be proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620.** The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Gary Kunz, can be reached on **(571)272-0887**.

The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

JOHN PAK
PRIMARY EXAMINER
GROUP 1600